Position Paper on Mining and Environmental Governance in Baguio City and Benguet

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A contribution to the Policy Dialogues on Environmental Governance for CAR University of the Philippines
Baguio, Baguio City, January 28, 2013

1. Relevance of the mining issue in Baguio and Benguet

Mining is already part of the history and economy of the Baguio-Benguet area, particularly in the municipalities of Itogon, Tuba, Tublay, Bakun and Mankayan.

Large-scale corporate mining has been going on in Benguet since 1905. Corporate underground and open pit mining has been going on for 108 years or more than a century of mining by Benguet Corporation, Itogon Suyoc Mines, Atok Big Wedge, Sto Niño Mines, Black Mountain, Benguet Exploration, Philex Mining Corporation, Lepanto Consolidated Mining Company, Gold Fields Resources, Royalco, and other companies. In our history, these mines were a major factor in the development trends of Baguio City and Benguet Province. The mines served as a magnet for the influx of migrant settlers from all over the Cordillera and other parts of the country and were a push factor in the development of Baguio as a commercial, government and educational center of the Cordillera region.

On the other hand, small-scale mining has also been significant as a traditional livelihood of the people for even longer, for several centuries. The Spanish colonizers, from the 16th to the 19th centuries, repeatedly sent military expeditions to Benguet in search for the gold mines of the Igorots. Through the centuries, the indigenous peoples had developed their own customary practices of small-scale mining and processing, which were rudimentary but regulated and sustainable. The indigenous communities developed practices of equitable access and benefit sharing of mineral resources within the community. Traditional small-scale mining used to be chemical-free and with minimal impacts on the environment. Even today, small-scale mining continues and is actually increasing as a means of livelihood of the people all over Benguet and in the outskirts of Baguio City.
2. Impacts of mining on the environment and on the people

The adverse impacts of large-scale corporate mining on the environment and on the people are most stark in Benguet because of its long history of mining. These impacts include the following:

- Destruction of wide areas of mountains both on the surface and underground due to massive land movement and tunneling, leading to landslides, soil erosion, ground subsidence and unstable land conditions
- Diversion of rivers in order to supply the water needs of mining companies; water pollution, siltation and degradation of rivers due to the dumping of mine wastes and the construction of tailings dams along riverbeds for the containment of mine tailings
- Drying up of natural water springs and sinking of the water table due to mining tunnels underground; and monopolization and privatization by the mining company of community water sources
- Denudation of forests and destruction of watersheds to supply lumber needs of mines (e.g. Heald Lumber)
- Loss of agricultural crops, biodiversity, fish, wildlife
- Displacement of indigenous peoples from ancestral lands, farm lands and homes due to loss of land areas for residential and agricultural purposes
- Loss of access to natural resources and traditional livelihoods such as agriculture, hunting, forest products, fishing, small-scale mining leading to food insecurity and outmigration in search for employment
- Violation of human rights and indigenous peoples’ rights, militarization and harassment causing fear, division and disunity within the community, as well as disruption of village life and schooling
- Loss of lives, homes, property, schools and other infrastructure, and seasonal isolation of communities due to landslides and other mining-induced calamities in mining affected areas, especially during the typhoon season
- Inhuman conditions of mine workers including hazardous and difficult working conditions, health problems, unfair labor practices, union busting, delayed and partial payment of wages, partial working days, work rotation, labor contractualization, non-payment of benefits and retrenchment.

3. Causes of Mining Impacts

This situation in relation to mining in Benguet is rooted in the ownership and classification of land in the province. Most lands have been classified by the government as mineral lands, forestlands or watershed areas, and are thus considered public lands belonging to the government, thus opening up the area for disposition and mining exploitation. As early as the 1900s, mining corporations were able to file and
obtain mining claims, mining leases and mining patents (before the 1935 constitution), exploration permits, mineral production sharing agreements and other forms of mining contracts and concessions (under the Philippine Mining Act) over much of the mineral-rich land areas of Benguet.

However, these same areas are historically and actually ancestral lands of the Ibaloi and Kankanaey indigenous peoples of Benguet and Baguio, which they have owned, occupied and used since time immemorial up to the present, and which they have inherited from their ancestors. The Ibaloi and Kankanaey of Benguet and Baguio own these ancestral lands and small-scale mining areas by virtue of Native Title, long before these were taken over by mining corporations through the use of land laws and other policies imposed by the colonial and subsequent Philippine governments.

Another cause of the severe impacts of mining in Benguet is the very poor regulation, implementation and monitoring by government of environmental laws and standards. Violations of environmental laws, regulations and procedures are rampant, including violation of particular conditions of Environmental Compliance Certificates (ECC) by mining companies. There is reckless disregard by mining companies of the environment as seen in their non-sustainable practices (such as open pit mining and releasing mines wastes into the rivers), non-compliance with free, prior and informed consent of communities before entering, lack of transparency of the mining company over their operations and profits, and other irresponsible practices of mining companies. Worst of all is the abandonment and non-rehabilitation of mined out sites, waste dumps and dead rivers that they have left behind such as in Itogon, Tublay and Tuba.

It is also apparent that the profits and wealth extracted by mining companies all go out of Benguet, exported to other countries, with minimum benefits for local communities and the local government. Thus, we have a situation like in Mankayan, for instance, which has hosted Lepanto Consolidated Mining Co. for 77 years. Mankayan is a 1st class municipality by income level. But what it has to show are poor roads, sinking lands such that the public schools in Poblacion and Colalo have fallen down the cliff, poor social services, no water supply in the Poblacion, no hospitals expect for the private hospital of Lepanto, tailings dams built across the rivers, filled with mine wastes spilling down into the Abra River, lack of livelihood opportunities, decreasing agricultural production due to mining operations, poverty, food insecurity, and contractualization and retrenchment of workers. The local government receives a mere 1% of the gross income from the mines, while the company reportedly flies out by helicopter around 10 bars of gold every 10 days to who knows where. Now the mining operation is set to expand significantly, with the investment poured in by Gold Fields Resources, still with questionable benefits for the community.

4. Policies related to mining and environment

The existing national policy on mining is the Philippine Mining Act of 1995. This law provides for the liberalization of the mining industry by opening up mineral resources for extraction and exploitation by large foreign mining corporations. The recent EO 79 of President Aquino (Institutionalizing And Implementing Reforms In The Philippine Mining Sector, Providing Policies And Guidelines To Ensure Environmental Protection And Responsible Mining In The Utilization Of Mineral Resources) is a
reiteration of the Philippine Mining Act of 1995. Its provisions are aimed to facilitate mining exploration and operations through certain institutional arrangements. It compels LGUs to conform to the national mining policy, by not issuing mining moratoriums such as has been done by several provinces.

The Peoples Small Scale Mining Act regulates small-scale mining through the Minahang Bayan. Traditional small-scale mining was practiced in Benguet long before the law was passed, thus, it is not organized according to Minahang Bayan regulations. It is thus considered illegal, and is not supported or recognized by the government. Rather, unregistered small scale mining is penalized and heavily taxed.

Other laws such as environmental policies, forestry laws, the local government code and the Indigenous Peoples Rights Act (IPRA) also apply. However, these laws are often in conflict with existing customary laws on land ownership and resource use of indigenous peoples. They violate indigenous processes and practices of collective decision-making and of giving consent to development interventions including mining.

5. Issues and Policy Recommendations

The foremost issue in relation to mining operations in Benguet is the violation of indigenous peoples’ rights to land and resources, their right to self-determination including the right to free, prior and informed consent (FPIC), their right to water, food, and traditional livelihoods, their right to a clean environment, and labor rights of mineworkers.

A policy recommendation is for the government and mining corporations to recognize indigenous peoples’ inherent rights in accordance with the provisions if the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) and other international human rights standards, and line with the Indigenous Peoples Rights Act. All national laws and policies contrary to the provisions of UNDRIP should be reviewed and reformed. In addition, environmental and labor laws and standards should be complied with by the mining companies.

On the issue of large scale vs. small-scale mining, experience has proven that traditional small-scale mining is sustainable, equitable and provides livelihood to thousands of families in Benguet and some parts of Baguio. However, recent trends show an increasing use of chemicals in ore processing, with corresponding health and environmental hazards.

A policy recommendation is to recognize traditional community-based small-scale mining organizations in Benguet and Baguio and to provide them support in order to minimize the intensive labor and risks involved in small-scale mining. Consider community-managed, medium-scale or centralized processing of mineral ores and waste containment and management, in order to improve minerals recovery while minimizing hazardous practices and environmental damages caused by small-scale mining.

On the significant environmental impacts of large-scale mining, the standard practice of constructing large tailings dams for mine waste management is seen as a failed technology, especially when factoring in climate change and extreme weather conditions. Tailings dams have repeatedly been breached, emptying voluminous and toxic mine wastes into the rivers.
A policy recommendation is to hold mining corporations to higher environmental standards, with strict monitoring and higher penalties for violations. Mining corporations should be required to rehabilitate and return mined-out areas, rivers, lands and forests damaged by mining operations to their previously sustainable conditions. There should be a moratorium on large-scale destructive mining, and a declaration of no-mining zones in remaining forests, watersheds and sacred sites of indigenous communities.

· On the issue of mining for whom, equitable access and sharing of benefits from mining should be ensured for the present population as well as sustainability for future generations.

As a policy recommendation, mining operations should only be allowed if they contribute a significant amount to the national economy and provide a return of benefits to the local economy and to the host communities. Measures should be taken so that the mining industry will contribute to national industrialization and will not merely be a source of minerals for export to other countries.

· On the issue of mining vis-à-vis agriculture, manufacturing, tourism and other economic activities, mining should not compromise the capacity of the community to produce and provide food for the people. Mining should be calibrated and regulated so as not to affect agricultural production, and other productive economic activities.

As a policy recommendation, a comprehensive land use and development plan should be made within the framework of Baguio-La Trinidad-Itogon-Sablan-Tuba-Tublay (BLISTT) area, as well as for the whole of Benguet. The plan should ensure conservation of forested areas, watersheds, water sources and agricultural land. Mining should be limited so as not to compromise the carrying capacity of Baguio City, the surrounding municipalities and the rest of Benguet. Regulated, responsible, small to medium scale mining should be contained in highly selected areas of Baguio and Benguet. #